

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WARREN E. GOODEN,

Plaintiff,

v.

AARON WALTON, et al.,

Defendants.

CIVIL ACTION
NO. 21-190

PAPPERT, J.

September 13, 2022

ORDER

AND NOW, this 13th day of September 2022, upon consideration of Plaintiff Warren Gooden's Third Amended Complaint (ECF 23-2), Defendants' separate Motions to Dismiss (ECF 28 and 29), Gooden's Response (ECF 32) and the Commonwealth Defendants' Reply (ECF 33) it is **ORDERED**:

1. The Motions are each **GRANTED in part** and **DENIED in part**.
2. The following claims from Gooden's Third Amended Complaint remain: count one as to Walton, count two as to Walton and Cheyney and count six. Gooden's other claims are dismissed with prejudice.
3. Gooden's Motion to Amend Caption and Add Defendant (ECF 34) is **GRANTED in part** and **DENIED in part**.¹

¹ Gooden moved to amend his complaint yet again, this time requesting leave from the Court under Rule 15(a)(2) to add a new party. The Court denies Gooden's request. First, Gooden's failure to include a draft amended complaint with his Motion significantly inhibits the Court's ability to assess his request. *See In re Allergan ERISA Litigation*, 975 F.3d 348, 358 (3d Cir. 2020). The generalized intentions stated in the Motion to Amend, without more, are inadequate. Second, Gooden failed to explain his failure to add the new party in any of his prior amendments. *Arthur v. Maersk, Inc.*, 434 F.3d 196, 204 (3d Cir. 2006).

Gooden's request to add Defendant Cheyney University to the caption of this case is granted. Despite confusion from both the Commonwealth Defendants and Gooden himself, Cheyney University was properly served a summons on November 8, 2021. (ECF 33; ECF 34; ECF 19-2.) The Clerk of Court is directed to amend the caption accordingly.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.